

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Jay Connor,	)	
	)	Case No. <u>2:15-cv-04099-CWH-MGB</u>
Plaintiff,	)	
	)	<b>NOTICE OF REMOVAL</b>
vs.	)	
	)	[Removed from The Magistrate's Court
Hunter Warfield, Inc.,	)	for the Ninth Judicial Circuit in and for
	)	Charleston County, South Carolina
Defendant.	)	Civil Action No.: 2015-CV-1010600763]
_____	)	

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§1331, 1441, and 1446, Defendant Hunter Warfield, Inc. ("Hunter Warfield" or "Defendant"), by and through its undersigned counsel, hereby invokes the jurisdiction of the Court and removes Civil Action No. 2015-CV-1010600763 from the Magistrate Court for the Ninth Judicial Circuit in and for Charleston County, South Carolina ("State Court Action") to the United States District Court for the District of South Carolina in the Charleston Division.

In filing this Notice of Removal, Hunter Warfield denies the above-named Plaintiff's allegations set forth in the State Court Action, denies Plaintiff states a claim for which relief may be granted and denies Plaintiff has been damaged in any manner. Hunter Warfield does not waive and specifically reserves any and all objections as to service, personal jurisdiction, defenses, exceptions, rights, and motions. No statement by Hunter Warfield herein or omission herefrom shall be deemed to constitute an admission by Hunter Warfield to any of Plaintiff's allegations or damages sought in the State Court Action. In support thereof, Hunter Warfield states as follows:

## **I. THE UNDERLYING CIVIL ACTION**

a. On or about August 21, 2015, Plaintiff Jay Connor (“Plaintiff”), proceeding *pro se*, commenced the State Court Action against Hunter Warfield by filing a complaint with the Charleston County Magistrate Court (the “Complaint”). The Complaint asserts causes of action against Hunter Warfield related to calls allegedly made by Hunter Warfield regarding an account Plaintiff alleges is not his account. The claims against Hunter Warfield include alleged violations of the federal Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”).

b. As set forth below, the State Court Action is properly removed to this Court pursuant to 28 U.S.C. §§ 1441 and 1446 because Defendant has satisfied the procedural requirements for removal, and because this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331.

## **II. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE MET**

a. Timeliness: A notice of removal may be filed within 30 days after the defendant receives a copy of the initial pleading or other papers from which it may be ascertained that the case is removable. 28 U.S.C. § 1446(b). Hunter Warfield, through its agent, Corporation Service Company (“CSC”) first received a copy of the Summons and Complaint on September 4, 2015 via U.S. Certified Mail. **See Exhibit A**. Accordingly, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b).

b. Removal to Proper Court: The Charleston County Magistrate Court is located in the Charleston Division of the U.S. District Court for the District of South Carolina. 28 U.S.C. § 121(1). Venue is proper because this is the “district and division embracing the place where the action is pending.” *See* 28 U.S.C. §§ 1441(a) and 1446(a).

c. Filing/Service Requirements: Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon Hunter Warfield, which papers include Plaintiff's Summons, Complaint, and proposed form Answer (blank) are attached as **Exhibit B** to this Notice of Removal. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal shall be served upon *pro se* Plaintiff, and a copy shall be filed with the clerk of court for the Ninth Judicial Circuit, Charleston County, South Carolina.

d. No previous application has been made for the relief requested herein.

**II. REMOVAL IS PROPER BECAUSE THIS COURT HAS FEDERAL QUESTION JURISDICTION PURSUANT TO 28 U.S.C. §§ 1331 AND 1441.**

Telephone Consumer Protection Act

a. Plaintiff's action is of a civil nature and involves issues of federal question over which the U.S. District Court for the District of South Carolina has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331 which provides: "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." *See Mims v. Arrow Fin. Servs., LLC*, 132 S.Ct. 740, 181 L.Ed.2d 881 (2012) ("We find no convincing reason to read into the TCPA's permissive grant of jurisdiction to state courts any barrier to the U.S. district courts' exercise of the general federal-question jurisdiction they have possessed since 1875."). Plaintiff's Complaint expressly raises a claim under the federal Telephone Consumer Protection Act ("TCPA") (47 U.S.C. § 227 *et seq.*) *See **Exhibit B***, Plaintiff's Complaint, pp. 4-5.

b. Plaintiff's federal cause of action is properly removable to this Court pursuant to 28 U.S.C. § 1441.

**WHEREFORE**, Hunter Warfield respectfully removes the State Court Action (Civil Action No.: 2015-CV-1010600763) from the Magistrate Court for the Ninth Judicial Circuit,

Charleston County, South Carolina, to the U.S. District Court for the District of South Carolina in the Charleston Division pursuant to 28 U.S.C. § § 1331, 1441 and 1446.

Dated: October 2, 2015

Respectfully submitted,

s/ Chad V. Echols

Chad V. Echols (Fed I.D. 9810)

Bess D. Lochocki (Fed I.D. 12042)

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ATTORNEY FOR DEFENDANT

HUNTER WARFIELD, INC.

THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Jay Connor,	)	
	)	Case No. <u>2:15-cv-04099-CWH-MGB</u>
Plaintiff,	)	
	)	
vs.	)	
	)	
Hunter Warfield, Inc.,	)	
	)	
Defendant.	)	
_____	)	

**CERTIFICATE OF SERVICE**

The undersigned certifies that Defendant **Hunter Warfield, Inc.’s Notice of Removal** and the accompanying exhibits were served upon *pro se* Plaintiff and the South Carolina Magistrate Court in and for Charleston County on the 2<sup>nd</sup> day of October, 2015 via U.S. Mail with sufficient postage affixed thereto and addressed as:

Jay Connor  
Post Office Box 20302  
Charleston, South Carolina 29413  
T: (843) 557-5724

The Honorable Henry W. Guerard  
City of Charleston Clerk of Court  
Charleston County Small Claims - City  
995 Morrison Drive  
Post Office Box 941  
Charleston, South Carolina 29402  
T: (843) 724-6720  
F: (843) 724-6785

/s/ Chad V. Echols  
Chad V. Echols (Fed. I.D. No. 9810)  
The Echols Firm, LLC